

# HONG KONG 2021 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

Hong Kong is a Special Administrative Region of the People's Republic of China. The 1984 Sino-British Joint Declaration and the Basic Law of the Special Administrative Region specified that, except in matters of defense and foreign affairs, Hong Kong would have a high degree of autonomy under the "One Country, Two Systems" framework. During the year, China continued to dismantle Hong Kong's political freedoms and autonomy in violation of these international commitments. Amendments to the Basic Law fundamentally changed Hong Kong's electoral system to allow Beijing effectively to block participation of political groups not approved by Beijing. The Hong Kong government arrested or disqualified opposition pan-democratic politicians, blocking their participation in upcoming elections. Pro-Beijing candidates won 89 of the 90 seats in the December Legislative Council election, which was widely regarded as fundamentally flawed. The turnout rate of 30.2 percent was a record low since Hong Kong's handover to the People's Republic of China in 1997.

The Hong Kong Police Force maintains internal security and reports to the Security Bureau. The Security Bureau continues to report to the chief executive; however, the National Security Department of the Hong Kong Police Force, established by the National Security Law, operates under the supervision of the central government, and the National Security Law permits the embedding of mainland security personnel within the department. In addition, the National Security Law established a Committee on National Security in the Hong Kong government that reports to the central government, as well as an Office for Safeguarding National Security in Hong Kong that is staffed by members of mainland security agencies. Unaccountable under Hong Kong law, the Office allows mainland China security elements to operate openly, contradicting the spirit and practice of the Sino-British Joint Declaration and the "One Country, Two Systems" framework. It is no longer clear if Hong Kong's civilian authorities maintain effective autonomous control over the city's security services. Hong Kong security forces have taken actions – to include arrests against nonviolent

protesters, opposition politicians, activists, journalists, union members, and others deemed by local officials to be critical of the central and Special Administrative Region governments.

Beijing undermined Hong Kong's autonomy and eroded civil liberties and democratic institutions throughout the year. Hong Kong and Chinese authorities repeatedly threatened or arrested associations, groups, or individuals affiliated with the prodemocracy movement, undermining fundamental freedoms otherwise provided for under the Basic Law. Following accusations made by Beijing-controlled media organs, Hong Kong authorities investigated and cut government ties with these groups, in some cases freezing their assets and forcing them to cease operations. Even after threatened groups disbanded, authorities continued targeting key members for investigations and arrests. These procedures were applied to prodemocratic parties, trade unions, and professional associations, among others.

Significant human rights issues included credible reports of: arbitrary arrests and detention; political prisoners or detainees; politically motivated reprisals against individuals outside of Hong Kong; serious problems regarding the independence of the judiciary in certain areas; arbitrary interference with privacy; serious restrictions on free expression and media, including unjustified arrests or prosecutions of journalists and censorship; substantial interference with the rights of peaceful assembly and freedom of association, including overly restrictive laws on the organization, funding, or operation of nongovernmental organizations and civil society organizations; restrictions on the freedom of movement and on the right to leave the territory; the inability of citizens to change their government peacefully through free and fair elections; serious and unreasonable restrictions on political participation; trafficking in persons; and significant restrictions on workers' freedom of association, including coercive actions against independent trade unions and arrests of labor union activists.

The government took few steps to identify, prosecute, and punish officials who committed human rights abuses. The government prosecuted at least one case of official corruption.

## **Section 1. Respect for the Integrity of the Person**

### **a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings**

There were no credible reports that the Special Administrative Region (SAR) or its agents committed arbitrary or unlawful killings.

### **b. Disappearance**

There were no reports of disappearances by or on behalf of government authorities.

### **c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment**

The law prohibits such practices and there were few reports of such abuse. According to a June Amnesty International report, prisoners in detention did not report abuse due to fear of retaliation. Other observers in direct contact with those in the detention facilities did not report witnessing or seeing evidence of abuse in the facilities.

### **Prison and Detention Center Conditions**

There were reports of prison or detention center conditions that raised human rights concerns.

Wall-fare, an independent prisoners' rights organization, submitted a petition signed by 100,000 persons requesting that in very hot weather, prisoners have access to cold water, better ventilation, and extra showers, as some facilities lacked air conditioning. Wall-fare disbanded in September after the security secretary announced that some groups were giving prisoners items such as chocolates and hair clips to recruit them to endanger national security.

In October, one individual detained under the National Security Law (NSL) accused the agency responsible for the SAR's prisons and detention centers of intercepting letters sent to her on the grounds that they would "affect order in the prison," arguing that the agency's standards had become stricter on political

grounds.

**Physical Conditions:** Some activists raised credible concerns that individuals in pretrial detention for charges related to the NSL were kept in solitary confinement for extended periods of time. In some cases, activists alleged these individuals were subjected to 24-hour lighting, excessively hot or cold temperatures, or other degrading conditions.

**Administration:** The government investigated allegations of problematic conditions and documented the results in a publicly accessible manner. There was an external Office of the Ombudsman.

**Independent Monitoring:** The government generally permitted legislators and justices of the peace to conduct prison visits. Justices of the peace may make suggestions and comments on matters, such as physical conditions, overcrowding, staff improvement, training and recreational programs and activities, and other matters affecting the welfare of inmates.

The Independent Police Complaints Council is the Hong Kong police watchdog, responsible for investigating alleged corruption or abuses. The SAR government announced in November 2020 that it would appeal a court ruling that month that declared the complaints council incapable of effective investigation, as it lacked necessary powers and was inadequate to fulfill the SAR's obligations under the Basic Law to provide an independent mechanism to investigate complaints against the Hong Kong police.

#### **d. Arbitrary Arrest or Detention**

The law prohibits arbitrary arrest and detention and provides for the right of any person to challenge the lawfulness of his or her arrest or detention in court. Under the NSL, however, the Hong Kong Police Force made several arbitrary arrests. The Hong Kong Police Force maintains internal security and reports to the SAR's Security Bureau. The Immigration Department of the Security Bureau controls passage of persons into and out of the SAR as well as the documentation of local residents. The Security Bureau and police continue to report to the chief executive. The National Security Department of the police force, however, which was established by the NSL, operates under the supervision of the People's Republic of

China (PRC) government, and the NSL permits the embedding of mainland security personnel within the department. In addition, the NSL established a Committee on National Security within the SAR government that reports to the PRC government, as well as an Office for Safeguarding National Security in Hong Kong that is staffed by members of the PRC security agencies who may not be prosecuted under the SAR's legal system. Therefore, it was no longer clear if the SAR's civilian authorities maintain effective autonomous control over the city's security services.

Security forces targeted nonviolent protesters, opposition politicians, and prodemocracy activists and organizations during the year. Multiple sources also reported suspected members of the PRC central government security services in the SAR were monitoring political activists, nongovernmental organizations (NGOs), and academics who criticized the PRC central government's policies.

At the time of its passage, the SAR and PRC claimed the NSL was not retroactive. Despite that claim, international observers have noted that the police National Security Department, created by the NSL, used its sweeping investigative powers to find evidence of "sedition" prior to the establishment of the NSL and charge individuals under both the NSL and colonial-era sedition laws. Some of the evidence cited included individuals' opinion posts online.

On January 6 and 7, authorities arrested 55 political activists for participating in the July 2020 unofficial pan-democratic primary election. Of those arrested, 47 were charged under the NSL with subversion.

### **Arrest Procedures and Treatment of Detainees**

Police generally apprehended suspects openly when they observed them committing a crime or with warrants based on sufficient evidence and issued by a duly authorized official. Police were also required to charge or release arrested suspects promptly. The government respected this requirement and generally brought arrested persons before a judicial officer within 48 hours. Detainees were generally informed promptly of potential charges against them. There was a functioning bail system that allowed persons not charged to post bail to be released from detention pending the filing of charges. Such "police bail" included

requirements that the arrestee submit to monthly check-ins at a police station. There was no defined period under the law within which the government was required to file charges. Activists argued that the bail system left the arrested in legal purgatory. After arrest, by law the Department of Justice investigates to determine the appropriate charges for the arrestee. Police have the authority to require individuals arrested under the NSL to surrender their travel documents while an investigation is continuing, including if they are not formally charged, and there were reports police exercised this authority in numerous NSL cases. Interviews of suspects must be videotaped.

Under NSL charges, democracy activists were increasingly denied bail, and the threshold for bail was higher. Bail conditions under the NSL place the burden of proof on the defendant to convince the judge that he or she would not “continue to commit acts endangering national security” and are adjudicated only by specially designated national security judges. Jeremy Tan, a former pan-democratic politician facing NSL charges, was denied bail in part based on an email invitation from a foreign consulate, while another former lawmaker, Claudia Mo, was denied bail in part based on interviews and text messages with international press. In November a SAR court denied bail to Cheung Kim-hung, chief executive officer (CEO) of *Apple Daily* parent company Next Digital, in apparent response to international condemnation of the executive’s arrest as an infringement on freedom of the press. Prosecutors cited a statement by the Media Freedom Coalition, signed by 21 governments, as well as a separate statement by the United Kingdom foreign secretary, as evidence of a close association between Cheung and “foreign political groups.”

Observers criticized SAR authorities for the treatment of the 47 individuals charged under the NSL in connection with the unofficial 2020 pan-democratic primary election. Police and prosecutors arrested, detained, and charged these individuals as a group, then immediately demanded a lengthy pretrial period to investigate the allegations made against them.

In February the Court of Final Appeal, the highest SAR court, reversed a ruling by a lower court granting bail to Jimmy Lai, media owner and democracy activist. The Court of Final Appeal decision stated that the courts have no power to review the NSL’s constitutionality, including provisions where the Basic Law and the

NSL may be in conflict, such as bail standards.

Authorities generally allowed detainees access to a lawyer of their choice, but some legal experts stated that during initial bail hearings, many of the 47 persons charged with subversion for organizing or participating in the unofficial 2020 pan-democratic primary faced delays obtaining access to their lawyers. The first defendant in an NSL trial, Tong Ying-kit, requested that two additional pro bono barristers be permitted to join his legal team. The specially designated national security judges stated that with the addition of the barristers, the defendant might no longer be eligible for legal aid, forcing the withdrawal of the proposed two additional lawyers.

### **e. Denial of Fair Public Trial**

Although the law generally provides for an independent judiciary, its independence was limited in NSL cases. Arrests and prosecutions appeared to be increasingly politically motivated. The SAR's highest court stated that it was unable to find the NSL or any of its provisions unconstitutional, or to review the NSL based on incompatibility with the Basic Law or the International Covenant on Civil and Political Rights. Activists voiced concern about NSL proceedings because those charged under the NSL face stricter bail conditions; may be denied due process (see below) and a fair and public trial (see below); and may face extradition to the mainland for trial. In bail hearings, the NSL places the burden of proof on the defendant, rather than the prosecution, as is otherwise the case in most criminal matters. Local Chinese Communist Party-controlled media entities in the SAR put pressure on the judiciary to accept more “guidance” from the government and called for extradition to the mainland in at least one high-profile 2020 case; they also criticized sentences deemed too lenient.

### **Trial Procedures**

The law provides for the right to a fair and public trial, and the judiciary largely enforced this right. Defendants have the right to be informed promptly and in detail of the charges against them and the right to a trial without undue delay, but these rights were not always upheld. Some defendants in drug and drug trafficking cases waited several years to go to trial. Some charged with violations related to

the 2019 protest movement may not face trial until 2023 due to a backlog in the judiciary's caseload. Many of those charged with NSL violations have been remanded into custody and have been awaiting trial for several months because of the NSL's high threshold for granting bail. Tong Ying-kit was charged and denied bail in July 2020 and was held in custody until his hearing on July 30. Jimmy Lai, arrested in December 2020, then temporarily released on bail, was returned to custody on December 31, 2020. His first trial was not held until the end of May, when he was convicted on a non-NSL charge of "unauthorized assembly" for participation in a 2019 peaceful protest. Given the special requirements for bail in NSL cases, the newness of the law, and COVID-19 pandemic related delays, persons charged under the NSL face longer-than-average pretrial delays.

Defendants are presumed innocent, except in official corruption cases: a sitting or former government official who maintains a standard of living above that commensurate with an official income or who controls monies or property disproportionate to an official income is by law considered guilty of an offense unless the official can satisfactorily explain the discrepancy. The courts upheld this ordinance. Trials are by jury except at the magistrate and district court levels. Under the NSL, SAR authorities may direct that a panel of three specially designated national security judges hear a case instead of a jury. In the trial of the first NSL defendant, Tong Ying-kit, the secretary of justice issued a certificate for the case to be heard by such a three-judge panel.

An attorney is provided at public expense if defendants cannot afford counsel. Defendants have adequate time and facilities to prepare a defense. The government conducted court proceedings in either Cantonese or English, the SAR's two official languages. The government provided interpretation service to those not conversant in Cantonese or English during all criminal court proceedings. Defendants could confront and question witnesses testifying against them and present witnesses to testify on their own behalf. Defendants have the right not to be compelled to testify or confess guilt, the right to be present at their trial, and the right of appeal. In October SAR authorities proposed limiting the right of defendants receiving legal aid to choose their own lawyers, as well as the number of legal aid and judicial review cases that each lawyer may take per year. Some lawyers, activists, and experts have criticized the proposal as restricting

defendants' right to the counsel of their choice and limiting activists' abilities to challenge authorities' actions.

SAR courts are charged with interpreting provisions of the Basic Law that address matters within the limits of the SAR's autonomy. SAR courts also interpret provisions of the Basic Law that relate to central government responsibilities or the relationship between the central authorities and the SAR. The Court of Final Appeal may seek an interpretation of relevant provisions from the PRC central government's Standing Committee of the National People's Congress (the legislature). SAR courts must by law follow the standing committee's interpretations in cases involving central government jurisdiction, although judgments previously rendered are not affected.

The chief executive provides a list of judges eligible to hear NSL cases. Some activists have described this NSL provision, which enables SAR authorities to hand pick the pool of judges to hear national security cases, as inconsistent with judicial independence. In multiple cases, SAR prosecutors have argued that defendants accused of charges that do not fall under the NSL should be tried by these specially designated national security judges, claiming that the cases involved "national security."

The National People's Congress Standing Committee determines how the NSL is interpreted, not a SAR-based judiciary or elected body. The standing committee has the power in cases involving foreign countries, serious situations, or major and imminent threats to national security to extradite the accused to the mainland and hold trials behind closed doors.

### **Political Prisoners and Detainees**

SAR authorities detained and imprisoned a growing number of individuals during the year because of expressed and, in some cases, presumed, political views and participation in nonviolent political activities.

Local and international observers noted that with few exceptions, those charged with NSL violations, sedition, or unauthorized assembly were peacefully exercising freedoms of expression, political participation, assembly, and association provided for in the Basic Law and the International Covenant on Civil

and Political Rights. For example, activists and legal experts have commented that the 47 individuals charged with violating the NSL for participation in the 2020 unofficial pan-democratic primary election have been accused of subversion for allegedly planning to use a mechanism described in the Basic Law to cause the chief executive to resign.

### **Politically Motivated Reprisal against Individuals Located Outside the Territory**

The NSL claims jurisdiction over any individual, regardless of location, deemed to be engaged in one of the four vaguely defined criminal activities under the NSL: “secession;” subversion; terrorist activities; or collusion with a foreign country or external elements to endanger national security. There are reportedly standing NSL-related arrest warrants against 30 individuals, all residing abroad, one of whom has foreign citizenship and has resided outside the SAR and mainland China for more than 20 years. Although reported in state-controlled media, the government refused to acknowledge the existence of these warrants.

The amendment to the SAR’s Personal Data (Privacy) Ordinance, effective October 8, also known as the antidoxing amendment, increases the criminal penalties for individuals who are “reckless” with others’ personal information as well as for staff of internet service providers or online platforms that do not comply with doxing-related requests. The only territorial limit on the application of the law is that the concerned individual was present in the SAR at the time of the incident or was a SAR resident, raising concerns that the amendment may be used to prosecute individuals located outside the SAR who criticize SAR officials.

### **Civil Judicial Procedures and Remedies**

For apolitical court cases, there is an independent and impartial judiciary for civil matters and access to a court to file lawsuits seeking damages for human rights violations by SAR agencies or persons, except for employees of the National Security Department, as well as the Central Government Liaison Office, depending on interpretations of the law.

### **f. Arbitrary or Unlawful Interference with Privacy, Family, Home,**

## **or Correspondence**

The law prohibits such actions, but there were multiple reports the SAR government failed to respect these prohibitions, including credible reports that PRC central government security services and the Beijing-mandated Office for Safeguarding National Security monitored prodemocracy and human rights activists and journalists in the SAR. Some of those arrested under the NSL, including some of the 55 individuals arrested in January in connection with the July 2020 unofficial pan-democratic primary election, were required to forfeit personal mobile and computer devices, including before they were formally charged. Police made repeated requests to technology companies for access to individuals' private correspondence. SAR authorities froze bank accounts of former lawmakers, civil society groups, and other political targets.

Technology companies, activists, and private citizens increasingly raised concerns about the right to privacy and protection of data. The antidoxing amendment passed in October allows the Office of the Privacy Commissioner for Personal Data to seize and access any electronic devices on the premises without a warrant if they suspect a doxing-related offense has been committed or may be committed. In June the Executive Council approved a proposal to mandate real name registration for subscriber identity module cards and to allow authorities to access telecommunications data without a warrant.

## **Section 2. Respect for Civil Liberties**

### **a. Freedom of Expression, Including for Members of the Press and Other Media**

Despite provisions of the Basic Law and government claims, the PRC and SAR governments increasingly encroached upon freedom of expression. Attacks on independent media included the coerced closures of *Apple Daily* and *Stand News*; the restructuring of public broadcaster Radio Television Hong Kong (RTHK) to gut its editorial independence and to delete previous online content considered politically sensitive; pressure applied to a prominent journalists' labor union; and acts to encourage self-censorship by other media outlets and public opinion leaders.

**Freedom of Expression:** There were legal restrictions on the ability of individuals to criticize the government publicly without reprisal. Expressing views perceived to be critical of the PRC or SAR prompted charges of sedition or NSL violations for prodemocratic activists and politicians. On June 4, Chow Hang-tung, the vice chair of the Hong Kong Alliance in Support of Patriotic Democratic Movements of China, was arrested and later charged for inciting unauthorized assembly, because she urged members of the public to “turn on the lights wherever you are – whether on your telephone, candles, or electronic candles” in remembrance of the Tiananmen Square massacre.

Requirements for electoral candidacy and for taking the oath of office also limited free speech in the political arena. The overhauled electoral system (see section 3) requires all elected officials to swear an oath of allegiance and to adhere to “patriotic” standards with respect to the PRC and SAR. Even with the signed pledge and oath of office, the Electoral Affairs Commission chose to disqualify 49 seated members of local District Councils and one remaining non-pro-Beijing legislative councilor, questioning their patriotism based on past statements or actions, despite their adherence to the requirements of office. There was no judicial recourse.

The government requires all civil servants to swear an oath of allegiance. According to media reports, civil servants may lose their jobs if they refuse to swear the oath and may face criminal charges, including under the NSL, if they later engage in behavior, including speech, deemed to violate the oaths. SAR authorities and Beijing officials insinuated that interactions with foreign diplomats could be considered “collusion” under the NSL. One former pan-democratic politician facing NSL charges was denied bail in part based on an email invitation from a foreign consulate, while another was denied bail in part based on interviews and text messages with international press.

Any speech critical of the central or local government or its policies may be construed as advocating secession or subversion in violation of the NSL, or inciting hate against the government in violation of a colonial-era sedition law. Prosecutors argued in multiple court hearings that the phrase “Liberate Hong Kong, Revolution of Our Times,” a common slogan of the 2019 prodemocracy protests, contained an inherent meaning of support for independence, a change in

the SAR's constitutional status, or both. To date, courts have convicted two individuals under the NSL in part on that basis. Scholars and activists have argued that the courts' decisions failed to take into consideration protections for freedom of expression enshrined in the Basic Law, the International Covenant on Civil and Political Rights, and the NSL itself.

In May SAR authorities passed legislation that criminalized inciting others not to vote in elections or to cast blank ballots. Violators are subject to up to three years' imprisonment and a fine. The SAR anticorruption agency arrested at least 10 individuals in November and December for allegedly urging, on social media, others to cast blank votes. On December 16, two of the 10 were the first to be prosecuted under this law. Legal experts described the legislation as disproportionate and out of line with common law norms that criminalize incitement only when the behavior incited is itself illegal. SAR officials have also claimed that inciting others to boycott elections or cast blank votes may violate the NSL.

SAR legislation prohibits acts deemed to abuse or desecrate the PRC national flag or anthem. In September SAR authorities amended the legislation to criminalize desecrating the national flag or anthem online, such as by posting an image of a "defiled" national flag on social media. At least one individual was convicted during the year for desecrating the national flag, and at least three others were arrested for allegedly desecrating the flag or insulting the national anthem.

**Freedom of Expression for Members of the Press and Other Media, Including Online Media:** The operating space for independent media shrank considerably. The SAR targeted independent media that expressed views it construed as not progovernment. Pro-Beijing media and politicians accused government-owned public broadcaster RTHK of exercising insufficient editorial oversight, opposing police and the government, and thus potentially standing in violation of the NSL. The SAR government subsequently forced out the managing director and replaced him with a pro-Beijing civil servant with no broadcasting experience. RTHK's civil service employees were given a deadline to swear loyalty oaths, leading many to resign. Under its new management, RTHK also fired presenters, cancelled shows, and censored content based on political perspective.

The SAR systematically dismantled *Apple Daily*, an independent newspaper and online news platform. On June 17, national security police officers arrested five executives of Next Digital, the parent company of *Apple Daily*. The same day, police searched *Apple Daily* offices and froze its assets. During the search, police documented each staff member on site. Following the freeze of its assets, on June 24, *Apple Daily* issued its last online reports and newspaper edition. Three members of the editorial staff, including a senior editor prohibited from boarding a flight at the airport, were subsequently arrested under the NSL. Cheung Kim-hung, CEO of *Apple Daily* parent company Next Digital, was denied bail based in part on public statements made by foreign governments, over which the defendant had no control.

On December 29, national security police officers arrested seven individuals affiliated with prodemocracy online media outlet *Stand News* on charges of “conspiracy to print or distribute seditious materials” under a colonial-era sedition law. The same day, police raided its office, seized journalistic materials, and froze its assets. Police also raided the home of *Stand News* deputy editor and chairman of the Hong Kong Journalists Association Ronson Chan, who was taken in for questioning but later released. *Stand News* subsequently announced on its social media page the resignation of its chief editor, the layoff of all staff, and the immediate cessation of all its operations.

**Violence and Harassment:** The pro-Beijing media and SAR officials began in September to accuse the Hong Kong Journalists Association of potential NSL violations. The association released a report in July titled *Freedom in Tatters* outlining the worrisome loss of journalistic freedom. The report expressed concern that police force national security offices would begin scrutinizing its activities using tactics like those used against trade unions and other professional associations. The Hong Kong Journalists Association is a frequent target of SAR government officials’ and pro-Beijing media criticism. In November the Foreign Correspondents’ Club issued the results of a member survey showing that 83 percent of respondents believed the NSL caused the media environment to change for the worse. This spurred the PRC Ministry of Foreign Affairs office in the city to condemn the club for smearing the city’s press freedom and interfering in the territory’s affairs.

**Censorship or Content Restrictions:** Reports of media self-censorship and suspected content control continued. Public libraries and universities culled their holdings, including archives, to comply with the NSL; it was unclear if this was based on a request from SAR officials or if the institutions chose to self-censor. Public libraries removed past issues of *Apple Daily* and books authored by prodemocratic activists. After the closure of *Apple Daily* and the increased scrutiny of RTHK, *Stand News* removed articles and columns from its website in June to reduce risks that SAR authorities would accuse the media outlet of breaking the NSL or other laws.

In July officers in the Hong Kong police's National Security Department arrested and later charged five members of a labor union with "conspiring to publish seditious publications" after the union published a series of children's books that referred to the 2019-20 protest movement. Police also froze more than 160,000 Hong Kong dollars (\$20,000) of the union's assets. In August SAR authorities announced they were canceling the union's registration for alleged activities inconsistent with the union's stated objectives. SAR officials accused the books of "inciting hatred" and "poisoning" children's minds against the PRC and SAR governments.

In October the Legislative Council passed a film censorship law that empowers SAR authorities to revoke a film's license if "found to be contrary to national security interests." Violators are liable for up to three years' imprisonment.

## **Internet Freedom**

The SAR government generally did not restrict or disrupt access to the internet or censor online content, although activists claimed central government authorities actively monitored their internet activity. There were also numerous reports of unexplained problems with access to certain websites associated with the prodemocracy movement. There were reports that public access was blocked to certain websites, including those associated with the prodemocracy movement and a museum focused on the 1989 Tiananmen Square massacre, although SAR authorities refused to confirm the reports. Prosecutors cited social media posts as evidence, including against those charged with NSL violations or inciting an unlawful assembly. NGOs and some media outlets reported focusing on digital

security to protect their privacy, partners, and sources.

When investigating NSL violations, the national security divisions of the police force may require a person who published information or opinions or the relevant service provider to remove the content or assist the national security divisions by providing information on the user. Facebook, WhatsApp, and Twitter reported denying the SAR government's user information and content takedown requests. Google reported releasing data to the SAR authorities on three occasions during the year, once due to a credible threat to life and twice in connection with suspected trafficking in persons; Google reported it had not complied with many political requests.

The antidoxing amendment raised concerns among civil society, the press, and online platforms that the vague amendment would be used to prosecute journalists reporting on matters of public interest. The amendment applies the same standard of consent to disclose data to private individuals and public officials alike and does not include carve outs for issues of public interest or for already publicly available information.

### **Academic Freedom and Cultural Events**

There was a significant increase in restrictions on academic freedom and cultural events. The PRC and SAR authorities claimed that a lack of "patriotic education" was a root cause of the 2019 antiextradition bill protests and targeted the Hong Kong Professional Teachers Union, which dissolved under political pressure in August (see section 2.b., Freedom of Association).

In February the SAR's Education Bureau announced the incorporation of "national security" into the SAR government-approved curriculum at all levels, beginning at the kindergarten level. New guidelines require all schools following the official SAR curriculum to limit political expression and activities on school campuses and to submit periodic reports regarding their implementation of so-called national security education. Activists decried the guidelines as restricting freedom of expression on campuses. The Education Bureau announced guidelines in October that require all SAR-run and subsidized schools to hold weekly flag raising ceremonies.

In July police raided the office of the student union at the University of Hong Kong after the union's council passed a motion expressing "sadness" at the death of an individual who attacked a police officer on the July 1 anniversary of the SAR's handover to PRC sovereignty. The union later apologized and retracted the motion. Under pressure from SAR authorities, university leadership barred the students who attended the council meeting from campus and severed ties with the student union. In August police arrested four members of the student union on suspicion of "advocating terrorism," a crime under the NSL.

In June a museum dedicated to memorializing the 1989 Tiananmen Square massacre operated by the Hong Kong Alliance in Support of Patriotic Democratic Movements of China was raided following allegations that the museum did not have the appropriate license. Under this pressure, the museum closed later that month.

In December, three universities removed sculptures and artworks commemorating the 1989 Tiananmen Square massacre from their campuses. The University of Hong Kong removed a memorial to the victims of the massacre called "Pillar of Shame," the Chinese University of Hong Kong removed a statue of "The Goddess of Democracy," and Lingnan University removed a wall relief portraying the massacre. The universities cited unspecified legal risks, and the University of Hong Kong and Chinese University of Hong Kong also claimed that their management had never approved the presence of the statues, which had stood on the campuses since 1997 and 2010, respectively.

## **b. Freedoms of Peaceful Assembly and Association**

The law provides for the freedoms of peaceful assembly and association, but SAR authorities did not respect those rights, especially for individuals and organizations associated with the prodemocracy movement. The government repeatedly claimed COVID-19 pandemic health concerns as reasons for restricting public gatherings, although it made exceptions for events involving government officials and pro-Beijing groups.

### **Freedom of Peaceful Assembly**

While the law provides for freedom of peaceful assembly, the government

effectively banned peaceful assembly for political purposes to prevent COVID-19. Because of the strict public health limits on any public gathering, police did not issue any “letters of no objection” for public demonstrations from groups not aligned with the PRC and SAR governments after the start of the COVID-19 pandemic. For example, police refused permits for a May 1 Labor Day rally, the annual 1989 Tiananmen Square massacre vigil, and the annual July 1 prodemocracy rally marking the anniversary of the SAR’s handover to China.

### **Freedom of Association**

SAR law provides for freedom of association, but the government did not respect the law. SAR authorities investigated and forced the closure of any group they deemed a “national security” concern. Pro-Beijing media also accused several unions, including the SAR’s largest trade and teacher unions (see section 7, Freedom of Association and the Right to Collective Bargaining) of “foreign collusion” – punishable by up to life in prison under the NSL – due to their affiliation with international organizations.

The Civil Human Rights Front, an umbrella group that organized large-scale annual prodemocracy protests, announced its dissolution just days after the police commissioner publicly accused the group of possible violations of the NSL and of operating since 2002 without proper registration. He made this accusation despite previous police approvals of the group’s requests for protest permits in prior years.

The 612 Humanitarian Fund, which used crowdfunding to support emergency financial and legal assistance for persons injured or arrested during the 2019 protests against the extradition bill, was also forced to shutter its operations after the government publicly made criminal allegations against the group.

The Hong Kong Alliance in Support of Patriotic Democratic Movements of China, a prodemocracy group organizing annual vigils to commemorate the Tiananmen Square massacre, voted to disband after Hong Kong police charged seven of its leaders, as well as the organization itself, under the NSL, and froze the group’s assets. In October Chief Executive Carrie Lam ordered the Alliance removed from the city’s Companies Registry.

By law any person claiming to be an officer of a banned group may be sentenced

to a maximum of three years in prison and fined. Those convicted of providing meeting space or other aid to a banned group may also be sentenced to fines and jail time.

### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at <https://www.state.gov/religiousfreedomreport/>.

### **d. Freedom of Movement and the Right to Leave the Territory**

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, but the government sometimes confiscated travel documents and enforced travel bans for democracy activists and opposition politicians facing charges. SAR authorities forced some individuals, including foreign nationals, who were arrested under the NSL but not charged and were on police bail, to surrender their travel documents as part of the conditions for bail.

In June after the closure of *Apple Daily*, SAR authorities arrested a senior editor at the airport for national security offenses. This editor had not previously been charged, and some media reporters indicated that SAR authorities maintained an exit ban “watchlist” of residents who would be intercepted if they attempted to leave the SAR.

The SAR government enacted an immigration bill amendment effective on August 1. The legal sector, NGOs, and refugee advocates expressed concern that the amendment empowered SAR authorities to bar anyone, without a court order, from entering or leaving the SAR.

**Foreign Travel:** The United Kingdom granted those born in Hong Kong prior to 1997 certain British rights but not the right to abode. After the United Kingdom granted these British National (Overseas) passport holders further rights and a path to citizenship, the PRC and SAR announced they would no longer recognize the British National (Overseas) Passport as an identity or travel document.

Some activists alleged that this action also effectively prevents some permanent residents who are members of ethnic minority groups but are not PRC nationals

from obtaining a travel document because only SAR residents who are PRC nationals may apply for a Hong Kong passport.

### **e. Status and Treatment of Internally Displaced Persons**

Not applicable.

### **f. Protection of Refugees**

The government cooperated with the Office of the United Nations High Commissioner for Refugees (UNHCR) and humanitarian organizations in providing protection and assistance to refugees, asylum seekers, stateless persons, or other persons of concern.

**Access to Asylum:** The law does not provide for granting asylum or refugee status, but the SAR government has established a system for providing limited protection to persons who would be subject to torture or other abuses in their home country.

The SAR government uses the term “nonrefoulement claim” to refer to a claim for protection against deportation. Persons subject to deportation could file a nonrefoulement claim if they either arrived in the SAR without proper authorization or had overstayed the terms of their admittance. Filing such a claim typically resulted in a period of detention followed by release on recognizance. Activists and refugee rights groups expressed concerns about the quality of adjudications and the very low rate of approved claims, fewer than 1 percent. Denied claimants may appeal to the Torture Claims Appeal Board. The government did not publish the board’s decisions, a practice that the Hong Kong Bar Association previously noted created concerns about the consistency and transparency of decisions. Persons whose claims were pending were required to appear periodically before the Immigration Department. In August the SAR implemented an ordinance amendment specifically targeting those seeking asylum and barring them from entering the SAR. The amendment also shortened timeframes for individuals seeking protection against deportation, and in some cases limited these individuals’ access to interpretation into their mother tongues.

**Abuse of Migrants and Refugees:** Activists indicated that persons seeking

refugee status faced discrimination and were frequent targets of negative commentary by some political parties and media organizations.

**Employment:** “Nonrefoulement claimants” have no right to work in the SAR while their claims are under review, and they must rely on social welfare stipends and charities. An NGO reported the government’s process for evaluating claims, which did not allow claimants to work legally in the SAR, made some refugees vulnerable to trafficking. The SAR government, however, frequently granted exceptions to this rule for persons granted nondeportation status and awaiting UNHCR resettlement.

**Access to Basic Services:** Persons who made “nonrefoulement” claims were eligible to receive publicly funded legal assistance, including translation services, as well as small living subsidies. Claimants were also entitled to basic health-care services at public hospitals and clinics. The children of such claimants could attend SAR public schools.

**Temporary Protection:** Persons whose claims for “nonrefoulement” are substantiated do not obtain permanent resident status in the SAR. Instead, the SAR government refers them to UNHCR for possible recognition as refugees and resettlement in a third country. In some cases, individuals waited years in the SAR before being resettled.

### **Section 3. Freedom to Participate in the Political Process**

The Basic Law limits the ability of residents to change their government. The National People’s Congress Standing Committee March decision to overhaul the SAR’s electoral system further limited this ability, in contradiction to provisions in the Basic Law that describe the election of the chief executive and Legislative Council via universal suffrage as the “ultimate aim.”

Voters do not enjoy universal suffrage in elections for the chief executive or equal suffrage in Legislative Council elections. PRC central authorities made broad changes to the electoral system, thereby ensuring that only candidates vetted and approved by Beijing would be allowed to hold office at any level.

September 19 elections for seats in the Chief Executive Election Committee

(CEEC), the first after the PRC's overhaul of the SAR's political system in March, by design produced a near unanimous sweep for pro-Beijing "patriots." More than 1,100 of the 1,500 seats in the expanded CEEC were predetermined and not up for election. For the few competitive seats, regulations limited the franchise and moved the SAR farther from the one-person, one-vote principle. Only one nominally independent candidate was elected to any of those seats. Although the CEEC was historically considered a "closed circle election," the September contest limited the number of voters eligible to cast ballots to fewer than 5,000 individuals, 97 percent smaller than the previous CEEC election in 2016. Following Beijing-imposed changes to the electoral system, all candidates for the Legislative Council are required to pass through a labyrinthine application process for vetting their "patriotic" bona fides. Per the new law, voters directly elect 20 of the expanded Legislative Council's 90 seats, or 22 percent; in contrast, in the 2016 Legislative Council election, voters directly elected 40 of the 70 seats (57 percent). Forty seats are selected by the CEEC directly, while 30 are selected as representatives of "functional constituencies" for various economic and social sectors. In the December 19 Legislative Council elections, pro-Beijing candidates won 89 of the 90 seats, including all 20 of the directly elected seats. None of the major prodemocracy parties fielded any candidates.

Under the Basic Law, only the SAR government, not members of the legislature, may introduce bills that affect public expenditure, the political structure, or government policy.

The SAR sends 36 deputies to the National People's Congress and has approximately 200 delegates in the Chinese People's Political Consultative Conference – bodies that operate under the direction of the Chinese Communist Party and do not exercise legislative independence. The approval of the chief executive, two-thirds of the Legislative Council, and two-thirds of the SAR's delegates to the legislature are required to place an amendment to the Basic Law on the legislative agenda, which has the sole power to amend the Basic Law.

## **Elections and Political Participation**

**Recent Elections:** On December 19, the SAR held elections for the expanded Legislative Council. Pro-Beijing candidates won 89 of the 90 seats, including all

20 of the directly elected seats in the geographical constituencies. Only one nonestablishment moderate won a seat in the social welfare constituency. The SAR government had earlier postponed the election originally scheduled for September 2020 citing COVID-19 concerns, a decision seen by the prodemocracy opposition as an attempt to thwart its electoral momentum and avoid the defeat of pro-Beijing candidates. Several activists also called on voters to boycott the election, arguing it was a sham election. About 1.3 million voters cast ballots in the election, a record low turnout rate of 30.2 percent. Approximately 2 percent of ballots cast were blank or otherwise invalid, a record high. In contrast the 2016 election had a turnout rate of 58.3 percent. In 2017 the 1,194-member CEEC, dominated by proestablishment electors, selected Carrie Lam to be the SAR's chief executive.

In September the SAR held elections for the CEEC, which elected 40 members of the Legislative Council in December and is scheduled to elect the chief executive in March 2022. Approximately 75 percent of the CEEC seats were filled by *ex officio* holders of various government positions, through nominations by Beijing-controlled bodies, or by uncontested candidates. Only one candidate not explicitly aligned with either the pro-Beijing or proestablishment camp won a seat. A total of 4,380 ballots were cast compared with more than 250,000 ballots in the 2016 election.

**Political Parties and Political Participation:** Since the imposition of the NSL, numerous leaders of prodemocracy political parties, protest organizing groups, and civil society organizations have been arrested for their involvement in nonviolent political activities. For example, in January, 55 prodemocracy politicians and activists, including former members of the Legislative Council and elected local District Council members, were arrested under the NSL for their involvement in the July 2020 unofficial pan-democratic primary election. No political party was subjected to an outright ban, but many prodemocracy political parties and organizations disbanded because of pressure from SAR authorities or concern they or their members would be subjected to political repression.

In May SAR authorities passed legislation requiring all elected members of local District Councils to swear loyalty oaths to Beijing. Many activists argued the move was designed to break the opposition pan-democratic camp's hold over the

District Councils, the SAR's only representative bodies elected solely through universal suffrage, after pan-democratic politicians won 388 of 479 seats in the councils in 2019 local elections and won overall control over 17 of the 18 councils. After passage of the legislation, anonymous SAR officials were cited in local media as saying that District Council members who took the loyalty oath and were subsequently disqualified might be required to reimburse the SAR for up to hundreds of thousands of Hong Kong dollars in salary and expenses. More than 260 District Council members resigned in response. Subsequently, SAR authorities administered loyalty oaths to the remaining District Council members in September and October, then disqualified 49 pan-democratic District Council members without the possibility of appeal. The disqualified members are ineligible to run for election for five years.

In August, the chief secretary ruled that Cheng Chung-tai, one of two remaining Legislative Council members who did not caucus with the pro-Beijing or proestablishment camp, was ineligible to serve on the CEEC. Cheng was subsequently disqualified from his legislative seat as well, although the PRC Ministry of Foreign Affairs had praised him in 2020 for remaining in the legislature after the disqualifications and resignations of nearly all other pan-democratic representatives. In September Cheng announced the dissolution of his political party, Civic Passion.

Since the National People's Congress Standing Committee decision in March created a labyrinthine nomination and vetting process for all candidates for political office designed to ensure "loyalty" to Beijing, and after the resignation and disqualification of hundreds of opposition District Council members, many opposition politicians and groups announced that they would not field candidates in the December Legislative Council elections. For example, the Democratic Party, the SAR's largest opposition party, announced in October that none of its members had received sufficient nominations from within the party to run.

**Participation of Women and Members of Minority Groups:** No law limits participation of women or members of minority groups in the political process, and they did participate. Following December Legislative Council elections, there were 17 women Legislative Council members (approximately 19 percent). In 2017 Carrie Lam was selected to be the SAR's first female chief executive.

There is no legal restriction against members of historically marginalized or ethnic minority groups running for electoral office or serving as electoral monitors. There were, however, no members of ethnic minority groups in the Legislative Council, and members of such groups reported they considered themselves unrepresented.

## **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for corruption by officials, and the government generally implemented the law effectively. There were, however, reports of government corruption and a growing culture of impunity from prosecution for police and security sector officials.

**Corruption:** Opposition activists claimed that three senior government officials were treated leniently after attending a group dinner in violation of social distancing regulations in March. The Department of Justice cleared a senior police official in the National Security Department of illegal misconduct for visiting an unlicensed massage parlor where illegal sex services were reportedly being offered, although six women were arrested and four ultimately charged from the same police raid. The officer was subsequently reassigned to lead the police force personnel and training department.

## **Section 5. Governmental Posture Towards International and Nongovernmental Investigation of Alleged Abuses of Human Rights**

A variety of domestic and international human rights groups reported increasing government scrutiny, harassment, and restrictions, although some continued to investigate and publish their findings on human rights cases. The SAR used the NSL to force organizations expressing criticism of the PRC to cease operations, to self-censor, or to change operational procedures to protect their staff. The forced disbandment of multiple trade unions and other organizations created a chilling effect on the remaining groups that were historically critical of the central government.

In October Amnesty International announced it would close its Hong Kong office, as well as its Hong Kong-based regional office, by the end of the year. The organization stated that the NSL made it “impossible for human rights organizations in Hong Kong to work freely and without fear of serious reprisals from the government.”

PRC and SAR officials repeatedly accused local and international NGOs that alleged human rights abuses in the SAR of “sowing discord.”

A SAR court denied bail to a media executive in November in apparent response to international condemnation of the executive’s arrest as an infringement on freedom of the press. The court cited a statement by the Media Freedom Coalition, signed by 21 governments, as well as a separate statement by the United Kingdom’s foreign secretary, as evidence of a close association among Cheung Kim-hung, CEO of *Apple Daily* parent company Next Digital, and “foreign political groups.”

**Government Human Rights Bodies:** There is an Office of the Ombudsman and an Equal Opportunities Commission. The government recruits commissioners to represent both offices through a professional search committee, which solicits applications and vets candidates. Commissioners were independent. Both organizations operated without interference from the SAR government and published critical findings in their areas of responsibility. NGOs stated that the Equal Opportunities Commission had a narrow mandate that did not allow for deep investigations, and limited support from the SAR government.

## **Section 6. Discrimination and Societal Abuses**

### **Women**

**Rape and Domestic Violence:** The law criminalizes rape against women, including spousal rape, but does not explicitly criminalize rape against men. Support organizations for sexual and domestic violence reported an increase in gender-based violence based on the larger volume of calls to their hotlines and requests for mental health-care assistance. Activists expressed concern that rape was underreported, especially within ethnic minority communities.

The law does not directly criminalize domestic violence, but the government

regarded domestic violence against women as a serious concern. Abusers may be liable for criminal charges under laws on offenses against the person, sexual assault, and child mistreatment, depending on which act constituted domestic violence. The government effectively prosecuted violators under existing criminal violations.

The law allows survivors to seek a three-month injunction, extendable to six months, against an abuser. The ordinance covers abuse between spouses, heterosexual and homosexual cohabitants, former spouses or cohabitants, and immediate and extended family members. It protects victims younger than 18, allowing them to apply for an injunction in their own right, with the assistance of an adult guardian, against abuse by parents, siblings, and specified immediate and extended family members. The law also empowers courts to require that an abuser attend an antiviolence program. In cases in which the abuser caused bodily harm, the court may attach an arrest warrant to an existing injunction and extend the validity of both injunctions and arrest warrants to two years.

The government maintained programs provided intervention, counseling, and assistance to domestic violence survivors and abusers.

**Sexual Harassment:** The law prohibits sexual harassment or discrimination based on sex, marital status, and pregnancy. The law applies to both men and women, and police generally enforced it effectively. There were multiple reports, however, of sexual harassment in housing, the workplace, and universities.

**Reproductive Rights:** There were no reports of coerced abortion or involuntary sterilization on the part of government authorities.

The government provides access to sexual and reproductive health services, including emergency contraception, for survivors of sexual violence.

**Discrimination:** Women enjoy the same legal status and rights as men. The SAR's sexual discrimination ordinance prohibits discrimination based on sex or pregnancy status, and the law authorizes the Equal Opportunities Commission to work towards the elimination of discrimination and harassment as well as to promote equal opportunity for men and women. Although the government generally enforced these laws, women reportedly faced some discrimination in

employment, salary, welfare, inheritance, and promotion.

## **Systemic Racial or Ethnic Violence and Discrimination**

Although ethnic Chinese account for most of the population, the SAR is a multiethnic society, with persons from multiple ethnic groups recognized as permanent residents with full rights by law. The law prohibits discrimination, and the Equal Opportunities Commission oversees implementation and enforcement of the law. The commission maintained a hotline for inquiries and complaints concerning racial discrimination. Although the SAR government took steps to reduce discrimination, there were frequent reports of discrimination against ethnic minorities; the law does not clearly cover racial discrimination occurring during law enforcement activity.

Advocates stated there were indications of racism in COVID-19 testing and quarantine measures. Returning South and Southeast Asian SAR minority group residents complained of poor quarantine facilities, wait times, and diet, and accused the SAR of discrimination.

Persons born in mainland China also experienced frequent discrimination. Nonpermanent residents did not receive SAR cash subsidies to help with the COVID-19 pandemic-related economic downturn until eight months after the pandemic spread to the SAR.

## **Children**

**Birth Registration:** All Chinese nationals born in the SAR, on the mainland, or abroad to parents, of whom at least one is a Chinese national and Hong Kong permanent resident, acquire both Chinese citizenship and Hong Kong permanent residence. Children born in the SAR to non-Chinese parents, at least one of whom is a Hong Kong permanent resident, acquire SAR permanent residence and qualify to apply for naturalization as Chinese citizens. Authorities routinely registered all such statuses.

**Child Abuse:** The law mandates protection for survivors of child abuse (battery, assault, neglect, abandonment, and sexual exploitation), and the SAR government enforced the law. The law allows for the prosecution of certain sexual offenses,

including those against minors, committed outside the territory of the SAR.

The government provided parent education programs through its maternal- and child-health centers, public education programs, clinical psychologists, and social workers. Police maintained a child abuse investigation unit and, in collaboration with the Social Welfare Department, operated a child witness support program.

**Child, Early, and Forced Marriage:** The legal minimum age of marriage is 16 for both girls and boys; however, parents' written consent is required for marriage before age 21.

**Sexual Exploitation of Children:** The age of consent is effectively 16. By law, a person having "unlawful sexual intercourse" with a person younger than 16 is subject to five years' imprisonment, while unlawful sexual intercourse with a person younger than 13 carries a sentence of life imprisonment. The law prohibits the commercial sexual exploitation of children and procuring children for commercial sex. The law makes it an offense to possess, produce, copy, import, or export pornography involving a child or to publish or cause to be published any advertisement that conveys, or is likely to be understood as conveying, the message that a person has published, publishes, or intends to publish any child pornography. Authorities enforced the law. The penalty for creation, publication, or advertisement of child pornography is eight years' imprisonment, while possession carries a penalty of five years' imprisonment.

**International Child Abductions:** The SAR is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data/reported-cases.html>.

## **Anti-Semitism**

The active Jewish community numbered approximately 2,500 persons. There were no reports of anti-Semitic acts.

## **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

## **Persons with Disabilities**

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities, and the government generally enforced these provisions. The government took action to investigate and punish those responsible for violence or abuses against persons with disabilities. The government generally implemented laws and programs to provide persons with disabilities access to education, employment, the judicial system, and health services. The law on disabilities states that children with separate educational needs must have equal opportunity in accessing education. Some human rights groups considered the SAR's disability law too limited and that its implementation did not promote equal opportunities. The Social Welfare Department provided training and vocational rehabilitation services to assist persons with disabilities, offered subsidized resident-care services for persons deemed unable to live independently, offered preschool services to children with disabilities, and provided community support services for persons with mental disabilities, their families, and other residents interested in improving their mental health.

The government generally implemented laws and programs to provide persons with disabilities access to information, communications, and buildings, although there were reports of some restrictions. The law calls for improved building access and provides for sanctions against those who discriminate.

## **Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation and Gender Identity**

No laws criminalize consensual same-sex sexual conduct between adults. While the SAR has laws that ban discrimination on the grounds of race, sex, disability, and family status, no law prohibits companies or individuals from discriminating on grounds of sexual orientation or gender identity. There are also no laws that specifically aid in the prosecution of bias-motivated crimes against members of the

lesbian, gay, bisexual, transgender, queer, or intersex (LGBTQI+) community. Lawmakers expressed both strong support for, and strong opposition to, LGBTQI+ rights. LGBTQI+ activists reported that they considered the courts to be the primary avenue to secure LGBTQI+ rights and viewed the courts as impartial in decisions on LGBTQI+ issues.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law provides for workers to form and join unions, but the SAR and PRC authorities took repeated actions that violated the principle of union independence. The law does not protect the right to collective bargaining or obligate employers to bargain. The law prohibits civil servants from bargaining collectively.

The law prohibits firing an employee for striking and voids any section of an employment contract that punishes a worker for striking. The commissioner of police has broad authority to control and direct public gatherings, including strikes, in the interest of national security or public safety.

By law an employer may not fire, penalize, or discriminate against an employee who exercises his or her union rights and may not prevent or deter the employee from exercising such rights. Penalties for violations of laws protecting union and related worker rights include fines as well as legal damages paid to workers. Penalties were commensurate with those under other laws involving the denial of civil rights.

The law was not effectively enforced, and the government repressed independent unions and their confederations. SAR and national authorities publicly claimed that strikes and other union-organized activities during the prodemocracy movement in 2019-20 were “anti-China” in nature, and pressure from officials and from PRC-supported media outlets led many unions to disband.

In August, the Hong Kong Professional Teachers’ Union, the city’s largest professional trade union with approximately 95,000 members, decided to dissolve after facing pressure from PRC-supported media, which called the union a “poisonous tumor” to be eradicated, and the announcement hours later by the Hong

Kong Education Bureau that it would cease working with the union.

On October 3, the Hong Kong Confederation of Trade Unions voted to dissolve. Founded in 1990, the confederation included more than 80 unions from a variety of trades and grew to more than 100,000 members. Chairman Wong Tik-yuen reported that union members received threats against their personal safety if union operations were to continue.

## **b. Prohibition of Forced or Compulsory Labor**

The law does not prohibit all forms of forced or compulsory labor, nor do laws specifically criminalize forced labor. Instead, the SAR uses its Employment and Theft Ordinances to prosecute forced labor and related offenses. Because these violations are typically civil offenses with fines, penalties for these offenses were not commensurate with those for analogous serious crimes, such as kidnapping, which violate the Crimes Ordinance and carry prison terms.

NGOs expressed concerns that some migrant workers, especially domestic workers in private homes, faced high levels of indebtedness assumed as part of the recruitment process, creating a risk they could be subjected to forced labor through debt-based coercion. Domestic workers in the SAR were mostly women and mainly came from the Philippines, Indonesia, and other Southeast and South Asian countries. The SAR allows for the collection of maximum placement fees of 10 percent of the first month's wages, but some recruitment firms required large up-front fees in the country of origin that workers struggled to repay. Some locally licensed employment agencies were suspected of colluding with local money lenders and agencies overseas to profit from debt schemes, and some local agencies illegally withheld the passports and employment contracts of domestic workers until they repaid the debt.

SAR authorities stated they encouraged aggrieved workers to file complaints and make use of government conciliation services, and that they actively pursued reports of any labor violations (see section 7.e., Acceptable Conditions of Work).

See also the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

### **c. Prohibition of Child Labor and Minimum Age for Employment**

The law prohibits the worst forms of child labor. Regulations prohibit employment of children younger than 15 in any industrial establishment. Children younger than 13 are prohibited from taking up employment in all economic sectors. Children who are 13 or older may be employed in nonindustrial establishments, subject to certain requirements, such as parental written consent and proof the child has completed the required schooling.

The Labor Department effectively enforced these laws and regularly inspected workplaces to enforce compliance with the regulations. Penalties for child labor law violations include fines and legal damages and were not commensurate with those for analogous serious crimes, such as kidnapping, that violate the Crimes Ordinance and carry prison terms.

### **d. Discrimination with Respect to Employment and Occupation**

The law and regulations prohibit employment discrimination based on race or ethnicity, disability, family status (marital status or pregnancy), or sex. The law stipulates employers must prove that proficiency in a particular language is a justifiable job requirement if they reject a candidate on those grounds. Regulations do not prohibit employment discrimination on the grounds of age, color, religion, political opinion, national origin or citizenship, sexual orientation or gender identity, HIV or other communicable disease status, or social status. The law authorizes the Equal Opportunities Commission to work towards the elimination of discrimination and harassment as well as to promote equal opportunity for men and women.

The government generally enforced these laws and regulations. In cases in which employment discrimination occurred, SAR courts had broad powers to levy penalties on those violating these laws and regulations. Although the government generally enforced these laws, women reportedly faced some discrimination in employment, salary, welfare, inheritance, and promotion.

Human rights activists and local scholars continued to raise concerns about job prospects for minority students, who were more likely to hold low-paying, low-

skilled jobs and earn below-average wages.

## **e. Acceptable Conditions of Work**

**Wage and Hour Laws:** The statutory minimum wage was below the poverty line for an average-sized household. The law does not regulate working hours, paid weekly rest, rest breaks, or compulsory overtime for most employees. Several labor groups reported that employers expected extremely long hours and called for legislation to address that concern.

**Occupational Safety and Health:** The law includes occupational safety and health standards for various industries. Workplace health and safety laws allow workers to remove themselves from situations that endanger health or safety without jeopardy to their employment. Employers are required to report any injuries sustained by their employees in work-related accidents.

The Occupational Safety and Health Branch of the Labor Department is responsible for safety and health promotion, identification of unsafe conditions, enforcement of safety management legislation, and policy formulation and implementation. Inspectors have the authority to make unannounced inspections and initiate investigations and prosecutions. For the first half of the year, the Labor Department reported 14,368 cases of occupational accidents.

The government effectively enforced the law, and the number of labor inspectors was sufficient to enforce compliance except in the cases of nonpayment or underpayment of wages to, and working conditions of, domestic workers. There were many press reports regarding poor conditions faced by, and underpayment of wages to, domestic workers. Labor inspectors have the authority to conduct unannounced inspections and initiate sanctions. Penalties for violations of the minimum wage or occupational safety and health standards include fines, damages, and worker's compensation payments. These penalties were commensurate with those for similar crimes. The Labor Tribunal adjudicated disputes involving nonpayment or underpayment of wages and wrongful dismissal.